

House File 2627

H-8272

1 Amend the amendment, H-8250, to House File 2627 as follows:

2 1. By striking page 1, line 4, through page 19, line 20, and  
3 inserting:

4 <Sec. \_\_\_\_\_. Section 103.6, subsection 1, paragraph e, Code  
5 2020, is amended by striking the paragraph.

6 Sec. \_\_\_\_\_. Section 103.9, subsection 3, Code 2020, is amended  
7 by striking the subsection.

8 Sec. \_\_\_\_\_. Section 103.10, subsection 6, Code 2020, is  
9 amended by striking the subsection.

10 Sec. \_\_\_\_\_. Section 103.12, subsection 6, Code 2020, is  
11 amended by striking the subsection.

12 Sec. \_\_\_\_\_. Section 103.12A, subsection 4, Code 2020, is  
13 amended by striking the subsection.

14 Sec. \_\_\_\_\_. Section 103.13, subsection 4, Code 2020, is  
15 amended by striking the subsection.

16 Sec. \_\_\_\_\_. Section 103.15, subsection 7, Code 2020, is  
17 amended by striking the subsection.

18 Sec. \_\_\_\_\_. Section 105.10, subsection 5, Code 2020, is  
19 amended by striking the subsection.

20 Sec. \_\_\_\_\_. Section 105.22, subsection 4, Code 2020, is  
21 amended by striking the subsection.

22 Sec. \_\_\_\_\_. Section 147.3, Code 2020, is amended to read as  
23 follows:

24 **147.3 Qualifications.**

25 An applicant for a license to practice a profession under  
26 this subtitle is not ineligible because of age, citizenship,  
27 sex, race, religion, marital status, or national origin,  
28 although the application form may require citizenship  
29 information. ~~A board may consider the past criminal record of  
30 an applicant only if the conviction relates to the practice of  
31 the profession for which the applicant requests to be licensed.~~

32 Sec. \_\_\_\_\_. Section 147.55, subsection 5, Code 2020, is  
33 amended by striking the subsection.

34 Sec. \_\_\_\_\_. Section 147A.7, subsection 1, paragraph j, Code  
35 2020, is amended by striking the paragraph.

1     Sec. \_\_\_\_\_. Section 148.6, subsection 2, paragraph b, Code  
2 2020, is amended by striking the paragraph.

3     Sec. \_\_\_\_\_. Section 148H.7, subsection 1, paragraph a, Code  
4 2020, is amended by striking the paragraph.

5     Sec. \_\_\_\_\_. Section 151.9, subsection 5, Code 2020, is amended  
6 by striking the subsection.

7     Sec. \_\_\_\_\_. Section 152.10, subsection 2, paragraph c, Code  
8 2020, is amended by striking the paragraph.

9     Sec. \_\_\_\_\_. Section 153.34, subsection 9, Code 2020, is  
10 amended by striking the subsection.

11    Sec. \_\_\_\_\_. Section 154A.24, subsection 1, Code 2020, is  
12 amended by striking the subsection.

13    Sec. \_\_\_\_\_. Section 156.9, subsection 2, paragraph e, Code  
14 2020, is amended by striking the paragraph.

15    Sec. \_\_\_\_\_. Section 272.1, Code 2020, is amended by adding the  
16 following new subsection:

17    NEW SUBSECTION. 5A. *“Offense directly relates”* refers to  
18 either of the following:

19    a. The actions taken in furtherance of an offense are  
20 actions customarily performed within the scope of practice of  
21 a licensed profession.

22    b. The circumstances under which an offense was committed  
23 are circumstances customary to a licensed profession.

24    Sec. \_\_\_\_\_. Section 272.2, subsection 14, paragraph a, Code  
25 2020, is amended to read as follows:

26    a. The board may deny a license to or revoke the license  
27 of a person upon the board’s finding by a preponderance of  
28 evidence that either the person has been convicted of a ~~crime~~  
29 an offense and the offense directly relates to the duties and  
30 responsibilities of the profession or that there has been  
31 a founded report of child abuse against the person. Rules  
32 adopted in accordance with this paragraph shall provide that  
33 in determining whether a person should be denied a license or  
34 that a practitioner’s license should be revoked, the board  
35 shall consider the nature and seriousness of the founded abuse

1 or crime in relation to the position sought, the time elapsed  
2 since the crime was committed, the degree of rehabilitation  
3 which has taken place since the incidence of founded abuse or  
4 the commission of the crime, the likelihood that the person  
5 will commit the same abuse or crime again, and the number of  
6 founded abuses committed by or criminal convictions of the  
7 person involved.

8 Sec. \_\_\_\_\_. Section 272C.1, Code 2020, is amended by adding  
9 the following new subsection:

10 NEW SUBSECTION. 7A. *"Offense directly relates"* refers to  
11 either of the following:

12 a. The actions taken in furtherance of an offense are  
13 actions customarily performed within the scope of practice of  
14 a licensed profession.

15 b. The circumstances under which an offense was committed  
16 are circumstances customary to a licensed profession.

17 Sec. \_\_\_\_\_. Section 272C.10, subsection 5, Code 2020, is  
18 amended by striking the subsection and inserting in lieu  
19 thereof the following:

20 5. Conviction of a felony offense, if the offense directly  
21 relates to the profession or occupation of the licensee, in the  
22 courts of this state or another state, territory, or country.  
23 Conviction as used in this subsection includes a conviction of  
24 an offense which if committed in this state would be a felony  
25 without regard to its designation elsewhere, and includes a  
26 finding or verdict of guilt made or returned in a criminal  
27 proceeding even if the adjudication of guilt is withheld or not  
28 entered. A certified copy of the final order or judgment of  
29 conviction or plea of guilty in this state or in another state  
30 constitutes conclusive evidence of the conviction.

31 Sec. \_\_\_\_\_. NEW SECTION. 272C.12 **Disqualifications for**  
32 **criminal convictions limited.**

33 1. Notwithstanding any other provision of law to the  
34 contrary, except for chapter 272, a person's conviction of a  
35 crime may be grounds for the denial, revocation, or suspension

1 of a license only if an unreasonable risk to public safety  
2 exists because the offense directly relates to the duties  
3 and responsibilities of the profession and the appropriate  
4 licensing board, agency, or department does not grant an  
5 exception pursuant to subsection 4.

6 2. A licensing board, agency, or department that may deny a  
7 license on the basis of an applicant's conviction record shall  
8 provide a list of the specific convictions that may disqualify  
9 an applicant from receiving a license. Any such offense  
10 shall be an offense that directly relates to the duties and  
11 responsibilities of the profession.

12 3. A licensing board, agency, or department shall not deny  
13 an application for a license on the basis of an arrest that  
14 was not followed by a conviction or based on a finding that an  
15 applicant lacks good character, suffers from moral turpitude,  
16 or on other similar basis.

17 4. A licensing board, agency, or department shall grant  
18 an exception to an applicant who would otherwise be denied a  
19 license due to a criminal conviction if the following factors  
20 establish by clear and convincing evidence that the applicant  
21 is rehabilitated and an appropriate candidate for licensure:

22 a. The nature and seriousness of the crime for which the  
23 applicant was convicted.

24 b. The amount of time that has passed since the commission  
25 of the crime. There is a rebuttable presumption that an  
26 applicant is rehabilitated and an appropriate candidate  
27 for licensure five years after the date of the applicant's  
28 release from incarceration, provided that the applicant was  
29 not convicted of sexual abuse in violation of section 709.4,  
30 a sexually violent offense as defined in section 229A.2,  
31 dependent adult abuse in violation of section 235B.20, a  
32 forcible felony as defined in section 702.11, or domestic abuse  
33 assault in violation of section 708.2A, and the applicant  
34 has not been convicted of another crime after release from  
35 incarceration.

1     *c.* The circumstances relative to the offense, including any  
2 aggravating and mitigating circumstances or social conditions  
3 surrounding the commission of the offense.

4     *d.* The age of the applicant at the time the offense was  
5 committed.

6     *e.* Any treatment undertaken by the applicant.

7     *f.* Whether a certification of employability has been issued  
8 to the applicant pursuant to section 906.19.

9     *g.* Any letters of reference submitted on behalf of the  
10 applicant.

11    *h.* All other relevant evidence of rehabilitation and present  
12 fitness of the applicant.

13    5. An applicant may petition the relevant licensing board,  
14 agency, or department, in a form prescribed by the board,  
15 agency, or department, for a determination as to whether the  
16 applicant's criminal record will prevent the applicant from  
17 receiving a license. The board, agency, or department shall  
18 issue such a determination at the next regularly scheduled  
19 meeting of the board, agency, or department or within thirty  
20 days of receiving the petition, whichever is later. The  
21 board, agency, or department shall hold a closed session  
22 while determining whether an applicant's criminal record will  
23 prevent the applicant from receiving a license and while  
24 determining whether to deny an applicant's application on  
25 the basis of an applicant's criminal conviction. A board,  
26 agency, or department may charge a fee to recoup the costs of  
27 such a determination, provided that such fee shall not exceed  
28 twenty-five dollars.

29    6. *a.* A licensing board, agency, or department that  
30 denies an applicant a license solely or partly because of  
31 the applicant's prior conviction of a crime shall notify the  
32 applicant in writing of all of the following:

33       (1) The grounds for the denial or disqualification.

34       (2) That the applicant has the right to a hearing to  
35 challenge the licensing authority's decision.

1 (3) The earliest date the applicant may submit a new  
2 application.

3 (4) That evidence of rehabilitation of the applicant may be  
4 considered upon reapplication.

5 b. A determination by a licensing board, agency, or  
6 department that an applicant's criminal conviction is  
7 specifically listed as a disqualifying conviction and the  
8 offense directly relates to the duties and responsibilities  
9 of the applicant's profession must be documented in written  
10 findings for each factor specified in subsection 4 sufficient  
11 for a review by a court.

12 c. In any administrative or civil hearing authorized by  
13 this section or chapter 17A, a licensing board, agency, or  
14 department shall carry the burden of proof on the question of  
15 whether the applicant's criminal offense directly relates to  
16 the duties and responsibilities of the profession for which the  
17 license is sought.

18 7. A board, agency, or department may require an applicant  
19 with a criminal record to submit the applicant's complete  
20 criminal record detailing an applicant's offenses with an  
21 application. A board, agency, or department may also require  
22 an applicant with a criminal record to submit a personal  
23 statement regarding whether each offense directly relates to  
24 the duties and performance of the applicant's occupation. For  
25 the purposes of this subsection, "*complete criminal record*"  
26 includes the complaint and judgment of conviction for each  
27 offense of which the applicant has been convicted.

28 Sec. \_\_\_\_ . RULEMAKING PROCEDURES AND APPLICABILITY.

29 1. The boards designated in section 147.13 other than the  
30 board of medicine, the board of nursing, the dental board, and  
31 the board of pharmacy, when carrying out rulemaking pursuant to  
32 chapter 17A to implement the provisions of this Act, shall each  
33 adopt the same rules, which shall be applicable to all such  
34 boards. The bureau of professional licensure of the department  
35 of public health shall assist the boards in carrying out such

1 rulemaking.

2 2. The accountancy examining board, the architectural  
3 examining board, the engineering and land surveying examining  
4 board, the interior design examining board, the landscape  
5 architectural examining board, and the real estate commission,  
6 when carrying out rulemaking pursuant to chapter 17A to  
7 implement the provisions of this Act, shall each adopt the same  
8 rules, which shall be applicable to all such boards and the  
9 real estate commission. The professional licensing bureau of  
10 the department of commerce shall assist the boards and the real  
11 estate commission in carrying out such rulemaking.

12 3. This section shall not apply to any rulemaking pursuant  
13 to chapter 17A by a board or commission to implement the  
14 provisions of this Act that the board or commission determines  
15 is necessary to address circumstances or legal requirements  
16 uniquely applicable to the board or commission.

17 Sec. \_\_\_\_ . EFFECTIVE DATE. This Act takes effect January 1,  
18 2021.

19 \_\_\_\_ . Title page, by striking lines 1 through 6 and  
20 inserting <An Act relating to disqualifications from holding  
21 a professional license in this state due to a criminal  
22 conviction, and including effective date provisions.>>

---

WOLFE of Clinton